

The Fourth Order on Reconsideration,<sup>2</sup> as amended by the January 29, 1998 Errata<sup>3</sup> established that broadcast stations, including NPR member public radio stations, are not obligated to contribute to the universal service fund. Unexceptional in that regard, the Fourth Report and Order nonetheless failed to expressly address NPR's outstanding request for clarification that NPR is not obligated to contribute to the universal service fund on the basis of its management of the Public Radio Satellite System ("PRSS"). NPR's Petition for Reconsideration therefore reiterated that request for clarification and demonstrated why the public interest does not require NPR to contribute to the universal service fund based on its PRSS management responsibilities.<sup>4</sup>

In urging the Commission "to again deny" NPR's request for an "exemption" from the universal service filing obligation,<sup>5</sup> Bell Atlantic fundamentally mischaracterizes both the Fourth Order on Reconsideration and NPR's Petition for Reconsideration. First, and as noted above, the Fourth Report and Order properly concluded that public radio stations are not obligated to contribute to the universal service fund but neglected to address the issue of NPR's management of the PRSS. Second, NPR has consistently maintained that Congress did not intend to compromise the long-standing Federal support for public radio by requiring NPR and its member stations to devote scarce resources to the universal service fund. To avoid any question regarding the filing obligation of public radio entities, however, NPR has sought clarification that

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<sup>2</sup> Fourth Order on Reconsideration in CC Docket No. 96-45, Report and Order in CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, rel. Dec. 30, 1997, 63 Fed. Reg. 2094 (Jan. 13, 1998).

<sup>3</sup> Errata, CC Docket No. 96-45, 96-262, 94-1, 91-213, 95-72, 97-21, DA 98-158, rel. Jan. 29, 1998, at 4 (amending Sections 54.703(b) and 54.703(c) of the Commission's rules).

<sup>4</sup> NPR Petition for Reconsideration at 3-5. See 47 U.S.C. § 254(d) ("Any other provider of interstate telecommunications may be required to contribute to the preservation and advancement of universal service if the public interest so requires.").

<sup>5</sup> Bell Atlantic Opposition and Comments at 2.

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matters of	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Access Charge Reform,	)	
Price Cap Performance Review	)	CC Docket Nos. 96-262,
for Local Exchange Carriers,	)	94-1, 91-213, 95-72
Transport Rate Structure and	)	
Pricing, End User Common Line Charge	)	
To: The Commission		

REPLY OF  
NATIONAL PUBLIC RADIO, INC.

Pursuant to Section 1.429(g) of the Commission's Rules, 47 C.F.R. § 1.429, National Public Radio, Inc. ("NPR") hereby submits its Reply to Bell Atlantic's Opposition To And Comments On Petitions for Reconsideration Of Fourth Order On Reconsideration in the above-captioned matter.<sup>1</sup>

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<sup>1</sup> Bell Atlantic's Opposition To And Comments On Petitions For Reconsideration Of Fourth Order On Reconsideration, CC Docket No. 96-45, CC Docket Nos. 96-262, 94-1, 91-213, 95-72, filed Mar. 25, 1998 [hereinafter "Bell Atlantic Opposition and Comments"]. See Petition for Reconsideration of National Public Radio, Inc., CC Docket No. 96-45, CC Docket Nos. 96-262, 94-1, 91-213, 95-72, filed Feb. 12, 1998 [hereinafter "NPR Petition for Reconsideration"].

AT&T also served NPR with a copy of its "Opposition [sic] To Petitions For Reconsideration", which challenges the Commission's exercise of authority under Section 254(d) of the Act, 47 U.S.C. § 254(d), but does not specifically address NPR's Petition for Reconsideration. See CC Docket No. 96-45, filed March 25, 1998. With regard to the substance of the AT&T pleading, the clarification that NPR has requested does not implicate AT&T's concerns for competitive neutrality and a broad contribution base. See *id.* at 1. Nor can it be fairly characterized as "confirm[ing] AT&T's view that [the Fourth Report and Order] will open the floodgates for further relief and create enormous potential for abuse." *Id.* at 4. Accordingly, to the extent AT&T opposes NPR's Petition for Reconsideration, that opposition is without merit and should be rejected.

The Fourth Order on Reconsideration,<sup>2</sup> as amended by the January 29, 1998 Errata<sup>3</sup> established that broadcast stations, including NPR member public radio stations, are not obligated to contribute to the universal service fund. Unexceptional in that regard, the Fourth Report and Order nonetheless failed to expressly address NPR's outstanding request for clarification that NPR is not obligated to contribute to the universal service fund on the basis of its management of the Public Radio Satellite System ("PRSS"). NPR's Petition for Reconsideration therefore reiterated that request for clarification and demonstrated why the public interest does not require NPR to contribute to the universal service fund based on its PRSS management responsibilities.<sup>4</sup>

In urging the Commission "to again deny" NPR's request for an "exemption" from the universal service filing obligation,<sup>5</sup> Bell Atlantic fundamentally mischaracterizes both the Fourth Order on Reconsideration and NPR's Petition for Reconsideration. First, and as noted above, the Fourth Report and Order properly concluded that public radio stations are not obligated to contribute to the universal service fund but neglected to address the issue of NPR's management of the PRSS. Second, NPR has consistently maintained that Congress did not intend to compromise the long-standing Federal support for public radio by requiring NPR and its member stations to devote scarce resources to the universal service fund. To avoid any question regarding the filing obligation of public radio entities, however, NPR has sought clarification that

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NPR and its member stations are, in fact, not obligated to contribute to the universal service fund.<sup>6</sup> NPR's Petition for Reconsideration therefore cannot be reasonably termed an attempt to revisit a previously denied request for an exemption.

With regard to the merits of NPR's outstanding request for clarification, and as established in NPR's Petition for Reconsideration, it would be contrary to the Federal interest in the PRSS, the public interest served by the PRSS, and the clear Congressional intent in support of NPR's PRSS management activities to divert revenue used to support and sustain the PRSS to the universal service fund.<sup>7</sup> It is particularly difficult to justify such a result given the Commission's determination that the public interest does not require universal service contributions based on purely commercial endeavors, such as cable commercial access leasing. Accordingly, the Commission should clarify its rules as amended by the Fourth Report and Order and clearly exempt NPR either by name or by reference to its status as a "public broadcasting entity" under Section 397(11) of the Communications Act,<sup>8</sup> from the obligation to contribute to the universal service fund.

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<sup>6</sup> See Request for Clarification or Waiver, CC Docket No. 96-45, filed September 15, 1997.

<sup>7</sup> NPR Petition for Reconsideration at 3-4. See H. Rep. No. 825, 100th Cong., 2d Sess. 12-13 (1988) (specifically endorsing the leasing of excess capacity to subsidize the cost of maintaining the PRSS); S. Rep. No. 444, 100th Cong., 2d Sess. 6-7 (1988) (same).

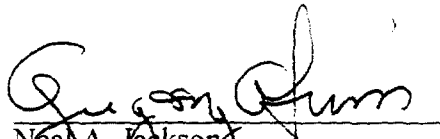
<sup>8</sup> Section 397(11) defines "public broadcasting entity" as "the Corporation [for Public Broadcasting], any licensee or permittee of a public broadcast station, or any nonprofit institution engaged primarily in the production, acquisition, distribution, or dissemination of educational and cultural television or radio programs." 47 U.S.C. § 397(11) (emphasis added).

**Conclusion**

For the foregoing reasons, the Commission should reject the Bell Atlantic AT&T oppositions to the extent they oppose NPR's Petition for Reconsideration and grant the relief NPR has requested.

Respectfully submitted,

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